

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:12-CR-54-FL-1
NO. 4:15-CV-187-FL

NIGEL OMAR GRAY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

This matter is before the court on petitioner's motion to amend judgment (DE 79). Upon careful review of the motion and the record in this case, the court has determined that petitioner's motion is, in substance, and in its entirety, a motion seeking alteration of his judgment of conviction, where petitioner seeks to have the court change the conditions of supervised release in the original judgment. (See DE 79 at pp. 2-3). Therefore, petitioner's motion must be construed as a second successive motion under 28 U.S.C. § 2255, and the motion must be dismissed for lack of jurisdiction. See United States v. Winestock, 340 F.3d 200, 206-07 (4th Cir. 2003); cf. United States v. McRae, 793 F.3d 392, 400 (4th Cir. 2015) (proscribing different procedure where a petition presents both claims attacking conviction and claims attacking collateral review process). Accordingly, petitioner's motion (DE 79) is DISMISSED for lack of jurisdiction.

SO ORDERED, this the 6th day of January, 2017.


LOUISE W. FLANAGAN
United States District Judge